

SIVE | PAGET | RIESEL

MARK A. CHERTOK
DIRECT DIAL: 646.378.7228
MCHERTOK@SPRLAW.COM

August 9, 2024

VIA ECF

The Honorable Lewis J. Liman
United States District Court
Southern District of New York
500 Pearl Street
New York, New York 10007

Re: *Chan v. U.S. Dep't of Transp.*, No. 23 Civ. 10365 (S.D.N.Y.) (LJL); *New Yorkers Against Congestion Pricing Tax v. U.S. Dep't of Transp.*, No. 24 Civ. 367 (S.D.N.Y.) (LJL); *Mulgrew v. U.S. Dep't of Transp.*, No. 24 Civ. 1644 (S.D.N.Y.) (LJL); *Trucking Ass'n of N.Y. v. Metro. Transp. Auth.*, No. 24 Civ. 4111 (S.D.N.Y.) (LJL)

Dear Judge Liman,

We write on behalf of all parties to update the Court on status and propose modifications to the schedule for certain filings in the above-referenced matters.

First, on July 26, 2024, plaintiffs in the *Chan* and *Mulgrew* cases filed motions to amend those complaints to modify and add claims based on the National Environmental Policy Act (“NEPA”). In accordance with the agreement of the parties in those actions as so ordered by the Court on July 29, 2024, the deadline for defendants to oppose the motions or to answer or move to dismiss the amended claims is currently August 30, 2024. *See Chan* ECF 107 and *Mulgrew* ECF 94, respectively. The parties propose to maintain that deadline for any papers in opposition to the motions to amend. The parties propose to submit by September 13, 2024 a joint status report proposing a schedule for further filings relating to the proposed new/modified NEPA claims.

Pursuant to a prior agreement of the parties in the *New Yorkers* and *Mulgrew* actions, so ordered by the Court on July 3 and 8, 2024, respectively, the current deadline for defendants to answer or move to dismiss the claims asserted in those actions based on the U.S. and New York State Constitutions is also August 30, 2024. *See New Yorkers* ECF 98 and *Mulgrew* ECF 91, respectively. The parties propose to extend the date to answer or move to dismiss these constitutional claims, as well as identical claims in the *Chan* action, until September 30, 2024, consistent with the deadline to answer or move in the other cases asserting constitutional challenges to the Central Business District Tolling Program (“CBDTP”) pending before Judge

The Honorable Lewis J. Liman

August 9, 2024

Page 2 of 3

Seibel.¹ This proposal also follows the commencement in New York State Supreme Court of two proceedings challenging Governor Hochul's "pause" of CBDTP implementation, which cases are scheduled to be heard in mid-September.²

Similarly, in *Trucking Association*, on August 2, 2024, the Court ordered the following schedule: defendants' pre-motion letters to be filed by August 9, plaintiff's response(s) to be filed by August 16, and motions to dismiss to be filed by September 6, 2024. The parties now propose to move those dates forward by several weeks; *i.e.*, defendants' pre-motion letters to be filed by September 4, plaintiff's response(s) to be filed by September 11, and motions to dismiss to be filed by September 30, 2024.

In sum, the proposed schedule, in chronological order, is as follows:

August 30, 2024: Defendants' oppositions (if any) to proposed amendments to NEPA claims in *Chan* and *Mulgrew*.

September 4, 2024: Defendants' pre-motion letters in *Trucking Association*.

September 11, 2024: Plaintiff's responsive letter(s) in *Trucking Association*.

September 13, 2024: Joint status report proposing further schedule for NEPA claims in *New Yorkers*, *Chan* and *Mulgrew*.

September 30, 2024: Partial motions to dismiss constitutional claims in *Chan*, *New Yorkers*, and *Mulgrew*; motions to dismiss in *Trucking Association*.

We thank the Court for its attention to this matter.

Respectfully submitted,

/s/ Mark A. Chertok

Mark A. Chertok

Elizabeth Knauer

SIVE, PAGET & RIESEL, P.C.

560 Lexington Ave., 15th Floor

(646) 378-7228 / (646) 378-7272

mchertok@sprlaw.com

eknauer@sprlaw.com

¹ See *County of Rockland v. Triborough Bridge and Tunnel Auth.*, No. 24 Civ. 2285 (S.D.N.Y.) (CS), ECF 21; *Neuhaus v. Triborough Bridge and Tunnel Auth.*, No. 24 Civ. 3983 (S.D.N.Y.) (CS), ECF 20.

² See *Riders Alliance v. Hochul*, Index No. 156711/2024 (Sup. Ct., N.Y. County), NYSCEF 16; *The City Club of New York v. Hochul*, Index No. 156696/2024 (Sup. Ct., N.Y. County), NYSCEF 14.

The Honorable Lewis J. Liman
August 9, 2024
Page 3 of 3

/s/ Roberta A. Kaplan
Roberta A. Kaplan
KAPLAN MARTIN LLP
156 West 56th Street | Suite 207
New York, NY 10019
(212) 316-9500
rkaplan@kaplanmartin.com

/s/ Gabrielle E. Tenzer
Gabrielle E. Tenzer
HECKER FINK LLP
350 Fifth Avenue, 63rd Floor
New York, NY 10118
rkaplan@heckerfink.com
gtenzer@heckerfink.com

Joshua A. Matz
Kate Harris (*admitted pro hac vice*)
HECKER FINK LLP
1050 K Street NW, Suite 1040
Washington, DC 20001
jmatz@heckerfink.com
kharris@heckerfink.com

*Counsel for Defendants the Metropolitan
Transportation Authority and the Triborough
Bridge and Tunnel Authority*